THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.17388 OF 2007

Dated 14-08-2007

Between:

M/s Gowtham Granites Private Limited …Petitioner

And

The Assistant Commissioner and
Two others …Respondents

THE HON'BLE SRI JUSTICE BILAL NAZKI

AND

THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION NO.17388 OF 2007

O R D E R *(Per the Hon'ble Sri Justice Bilal Nazki):*

Heard learned counsel for the parties and with their consent, the writ petition is being disposed of at this stage.

The petitioner filed an appeal before the Tribunal against the order of the Appellate Deputy Commissioner. The appeal was allowed and the matter was remanded to the Appellate Deputy Commissioner-third respondent by order of the Tribunal,
dated 26-06-2007. In the meantime, the petitioner also filed an application for stay before the third respondent, which is pending. The respondents, however, issued a garnishee notice on 07-07-2007.

Since the appeal is pending before the third respondent and the application for stay is also pending, therefore, we feel that the garnishee notice should have not been issued at this stage.

In this view of the matter, the garnishee notice dated
07-07-2007 is set aside on payment of 50% of the disputed tax, by the petitioner, within a period of six weeks from today and there shall be stay of recovery till disposal of the appeal. However, if the amounts are not deposited within the period of six weeks as stipulated hereinabove,

the Department shall be at liberty to take recourse to law. No order as to costs.

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(Bilal Nazki,J)

Dated 14th August, 2007

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(Nooty Ramamohana Rao,J)

Note: Issue wire at party's cost

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